IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

WEDNESDAY, THE 13TH DECEMBER 2006 / 22ND AGRAHAYANA 1928

MFA.No. 587 of 2003(V)

WCC.127/1999 of COMMISSIONER FOR WORKMEN'S COMPENSATION (DEPUTY LABOUR COMMISSIONER), ERNAKULAM
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APPELLANT: OPPOSITE PARTY:

V.K. RAGHAVAN, VAYALIL HOUSE,
KALLADU KARA, CHELADU P.O.,
KOTHAMANGALAM.

BY ADV. SRI.C.C.THOMAS

RESPONDENTS: PETITIONER:
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1. THE COMMISSIONER FOR WORKMEN'S COMPENSATION (DEPUTY LABOUR COMMISSIONER) ERNAKULAM.

2. I.P. DAS, S/O. PALA, IYKKARA HOUSE, CHELAD P.O., PINDIMANA VILLAGE, KOTHAMANGALAM TALUK.

THIS MISC. FIRST APPEAL HAVING COME UP FOR ADMISSION ON 13/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.PADMANABHAN NAIR, JJ.

M.F.A.NO.587 OF 2003

Dated 13th December, 2006

JUDGMENT

Koshy,J.

Second respondent in this case, a coconut tree climber and toddy tapper, employed by the appellant, met with a serious accident as he fell from a coconut tree. As a result of the accident, he sustained serious injuries as can be seen from Exts.A1 and A5 medical certificates. Ext.A4 shows that he was an employee of the appellant, but, he was denied benefit from the Kerala Tree Climbers Benefit Scheme as he was engaged in the tapping of toddy. The appellant was the licencee. AW3 deposed that accident occurred while tapping coconut tree in his property and tree was leased to the appellant for tapping toddy. Merely because he was not enrolled as a member of the Welfare Fund Scheme as he was a temporary employee, workmen's compensation benefit cannot be denied. Finding of the Commissioner that second respondent met with the accident during the course of employment under the appellant is based on evidence adduced in this case. The loss of earning capacity was also arrived at by the Commissioner on the basis of the

medical certificate produced and since it is a finding of fact, no appeal will lie under section 30 of the Workmen's Compensation Act as there is no substantial question of law. Apart from the above, it is seen that the required prior deposit of compensation is not made. Therefore, the appeal itself is not maintainable.

The appeal is dismissed.

J.B.KOSHY
JUDGE

K.PADMANABHAN NAIR
JUDGE

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